

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**Glass Dimensions, Inc. on behalf of the
Glass Dimensions, Inc. Profit Sharing
Plan and Trust, and all others
similarly situated,**

Plaintiffs,

v.

**State Street Corporation, State Street
Bank and Trust Co., and
State Street Global Advisors,**

Defendants.

CIVIL ACTION NO: 1:10-CV-10588 (JLT)

**DECLARATION OF ANDREW WONG, PH.D. IN SUPPORT OF DEFENDANTS'
MOTION TO COMPEL THE PRODUCTION OF INFORMATION
AND DATA ON WHICH PLAINTIFF'S EXPERT JOHN A. TABACCO, JR.
RELIED IN FORMING HIS OPINIONS**

I, ANDREW WONG, PH.D., hereby declare as follows:

1. I am a Managing Principal at Analysis Group, Inc. ("Analysis Group"), located at Two Prudential Plaza, 180 North Stetson Avenue, Suite 2300, Chicago, IL 60601. Analysis Group has been retained as a non-testifying expert supporting Edmon Blount, an expert for defendants in the above-captioned litigation.
2. I submit this Declaration in support of Defendants' Motion to Compel the Production of Information and Data On Which Plaintiff's Expert John A. Tabacco, Jr., Relied in Forming His Opinions. I have personal knowledge of the information referenced in this Declaration.
3. On April 8, 2013, counsel for State Street provided Analysis Group with a Microsoft Excel file entitled "LOCATE DATA.xlsx."

4. I understand from counsel for State Street that Plaintiff produced this data (the “LocateStock Data Extract”) as the data underlying the expert report authored by John A. Tabacco, Jr., dated March 11, 2013 (the “Tabacco Report”). I understand that an e-mail from Greg Porter to Brad Konstandt, dated April 8, 2013, describes this data as the “raw Locate Stock data.”
5. Analysis Group has attempted to undertake an analysis of the LocateStock Data Extract to determine, among other things, the extent to which it supports the conclusions offered in the Tabacco Report.
6. Analysis Group cannot assess the conclusions of the Tabacco Report that are based upon the LocateStock Data Extract due to various limitations with these data. Analysis Group cannot interpret the data without additional explanatory information, due to undefined values, codes and fields, as well as the unexplained and inconsistent structure of the data. Moreover, according to the statistics in the Tabacco Report, the LocateStock Data Extract represents only a small subset of the entire LocateStock database. Analysis Group requires the entire LocateStock database to assess the validity and reliability of the LocateStock Data Extract and the conclusions of the Tabacco Report.

Analysis Group Cannot Analyze and Interpret the “Raw Locate Stock Data” Without Additional Explanatory Information

7. The LocateStock Data Extract cannot be deciphered without further explanatory information because it suffers from several deficiencies such as undefined values, codes and fields that cannot be interpreted without additional clarifying information. The unexplained fields include the following:

- a. There is no definition for the “StatusDescription” field or the 13 unique descriptions that occur within that field (*e.g.*, “Pending Partial Fill Approval” and “Rejected Inventory”) and the “State” values associated with those descriptions.
 - b. The LOCATE DATA.xlsx file generally presented data in a two-panel format, with each panel containing different fields. There is no data dictionary specifying what relationship, if any, exists between these two panels of data or defining what each panel represents.
 - c. The observations included in the two panels of data may include quotes or mere indications of availability on the part of potential lenders and borrowers. There is no data dictionary specifying whether each row/observation in these two panels of data represents an actual transaction in which shares were lent, an amount available for loan, an amount demanded for loan, or something else.
 - d. There is no definition for the “LocateDate” field.
8. The format and organizational structure of the data is inconsistent across the data set and requires further explanation. For example:
- a. Although the data is generally presented in a two-panel format, for certain securities (*e.g.*, SPWRA and MLM) Plaintiff produced only a single panel of data. There is no data dictionary specifying whether the absence of these panels indicates that no observations of the types represented in the missing panels exist for these securities, or whether the data set is simply incomplete.
 - b. The “State” field does not exist for the following securities: ARTC, GHL, IOC, and LVS. There is no data dictionary specifying whether the data should be

interpreted differently in some way for these securities due to the absence of this field, or whether the data set is simply incomplete.

9. There is no data dictionary specifying whether the LocateStock Data Extract includes all relevant data for each security on each day. For example, there are only four observations in the first panel of the data provided for AIG. It is unclear whether the LocateStock database contained only four transactions for AIG on August 7, 2009, or whether other transactions for AIG on that date have been omitted from the data set, thereby introducing potential biases and other infirmities in the analysis and conclusions of the Tobacco Report.
10. There is no data dictionary specifying whether the data represents all loans originated on a given date or all loans outstanding on a given date. Based upon the observations above, the LocateStock Data Extract lacks the hallmarks of a data extract from a professional database. As currently composed, the Locate Data is insufficiently detailed to permit an accurate analysis of the Tobacco Report and its conclusions.
11. Without further explanatory information, Analysis Group cannot determine whether and to what extent the empirical analysis and conclusions offered in the Tobacco Report may suffer from errors or infirmities that would render its conclusions unreliable.

Additional Data is Necessary to Evaluate the Conclusions Reached in the Tobacco Report Using the LocateStock Database

Robustness of the LocateStock Database

12. The Tobacco Report states that the LocateStock database covers \$1 trillion in notional value. Tobacco Report at ¶ 15.

13. Neither the Tabacco Report nor any publicly available information that I was able to locate describes the process by which the LocateStock database was compiled.
14. Neither the Tabacco Report nor publicly available information that I was able to locate describes the nature of the inputs for or contributors to the LocateStock database.
15. Without access to the LocateStock database, it is impossible to evaluate the robustness or reliability of the database and whether its use as a measure of market rebate rate data is scientifically sound or defensible.
16. The LocateStock database is required to assess whether the LocateStock database itself exhibits any reporting bias or survey bias and whether any reporting or survey bias in the database inappropriately influences the Tabacco Report's analysis or conclusions.
17. The Tabacco Report states that the LocateStock database contains 79,000,000 transactions of 121 billion shares covering \$1 trillion in notional value, aggregated from January 2005 to the end of the class period. Tabacco Report at ¶ 15.
18. Based upon this number of transactions, and assuming (a) that there are 250 trading days per year, and (b) that the LocateStock database aggregated data through the end of 2010, Analysis Group estimates that the LocateStock database contained on average slightly more than 50,000 transactions per day.

Sampling Methodology to Produce the Subset of Data Used in the Tabacco Report

19. In order to evaluate the conclusions put forth by the Tabacco Report, Analysis Group must also evaluate the Tabacco Report's methodology for selecting the sample of

securities and dates upon which his report relies.¹

20. The Tabacco Report appears to base its conclusions on an analysis of 27 observations which comprise 15 different dates and 15 securities as presented in the LocateStock Data Extract.
21. The Tabacco Report does not disclose the process through which the Tabacco Report selected the 27 observations and it is not clear that these 27 observations include the entirety of transactions for these securities on the selected dates.
22. The LocateStock database is required to assess whether the transaction selection upon which the Tabacco Report relies exhibits any selection bias or other infirmities.

Analysis Group Has Been Unable to Purchase the LocateStock Database

23. On July 12, 2013, I attempted to contact InstiLend.com — listed in the Tabacco Report as the entity currently housing the historical LocateStock data (Tabacco Report at ¶ 28) — to purchase the LocateStock database on the open market.
24. InstiLend.com's phone number was answered by an automated message stating that the phone number is no longer in service and directing the caller to call an alternative number.
25. I called the alternative number stated in the message, which led me to an answering machine.
26. I left a message with my contact information and a basic description of my request for data.
27. I then called the telephone number listed for PreBorrow.com. PreBorrow.com is the first search result when searching for "LocateStock.com" on Google. PreBorrow.com is run

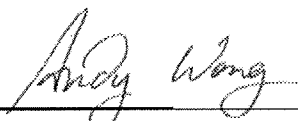
¹ Mr. Tabacco's report states that he prepared a list of seventeen securities that he "knew, from personal experience, to be specials on seventeen respective dates." Tabacco Report at ¶ 26.

by All-American Technologies, a company that features "LocateStock" and appears to be associated with Mr. Tabacco. *See* Tabacco Report, Ex. A.²

28. PreBorrow.com's phone number was answered by an automated message stating that the number listed for PreBorrow.com was not in service.
29. The website for LocateStock.com does not appear to be active.
30. The website for Instilend.com does not reference the maintenance or sale of historical rebate data.
31. The website for PreBorrow.com does not reference the maintenance or sale of historical rebate data.
32. On July 15, 2013, I received a call from Mr. Tabacco himself in response to the message I left at the alternate number for InstiLend.com. I promptly ended the conversation and did not have any substantive discussion with Mr. Tabacco about the data or the litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Chicago, Illinois
August 15, 2013

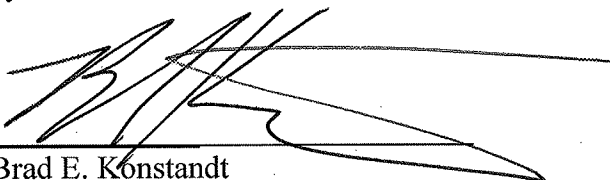


Andrew Wong, PH.D.

² *See also*, <http://www.preborrow.com/AboutUs.aspx>.

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2013, I caused a copy of the **DECLARATION OF ANDREW WONG, PH.D. IN SUPPORT OF DEFENDANTS' MOTION TO COMPEL THE PRODUCTION OF INFORMATION AND DATA RELATED TO THE EXPERT REPORT OF JOHN A. TABACCO, JR.** to be served electronically, via the electronic filing system, on the registered participants as identified on the Notice of Electronic Filing (NEF), and by e-mail and first class on those indicated as non-registered participants.



Brad E. Konstandt